

FILED

JUN 21 2010

CLERK *UP*
United States Bankruptcy Court
San Jose, California

Benyam and Paula R. Mulugeta
1025 Harker Ave.
Palo Alto, Ca. 94301
Tel: 650-906-8012
Email bmulugeta1020@gmail.com

Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In Re:

Benyam and Paula R. Mulugeta

Case No. 09-51900 ASW
CHAPTER 11

Debtors

Date: June 21, 2010
Time: 2.00 pm
Room: 3020

Judge: The Honorable A. Weissbrodt

**DEBTORS COUNTER TO STERLING SAVINGS BANK RESPONSE TO DEBTORS
STATUS CONFERENCE STATEMENT**

COMES NOW, Debtors Benyam and Paula R. Mulugeta, ("Debtors") counter to Sterling
Savings Bank response to Debtors Status Conference Statement as follows:

I- In regard to : 240 E.O'Keefe, East Palo, and 353 Grand Ave. Oakland

"Properties":

1- Debtors believe that both "Properties" have sufficient equity and generate income, and
are essential for Debtors successful reorganization plan.

2- Debtors listed 240 E. O'Keefe, East Palo Alto for **\$2,500,000** and 353 Grand Ave.
Oakland for **\$2,750,000** for sell pursuant to Court's order of April 2, 2010. The list
prices of the "Properties" are based on the **current market value** and the properties
condition as well as income. The listing agents, David Wolf of Marcus & Millichap for
353 Grand Ave. and Mrs. Mahnaz Khazen of Coldwell Bankers Commercial arrived at
these market values.

- 1 3- Debtors have been continuously making the post-petition payments for the two
2 properties to Sterling Saving Banks, \$10,505.20 for 353 Grand Ave. Oakland, and
3 \$9,817.70 for 240 E. O'Keefe, East Palo Alto, pursuant to Court's Order of June 2, 2009.
- 4 4- Debtors submit that Sterling Savings Banks own appraisal concluded that 353
5 Grand Ave. Oakland is worth \$3,100,000 once it is stabilized. Currently the
6 property is stabilized and generating income after six months of vacancy and repair.
7 For Sterling Saving Bank counsel to argue that Debtors should have accepted
8 \$1,800,000 offer for the property that their own appraiser determined the fair
9 market value is over \$3,000,000 is not only self-serving and unfair and total
10 disregard the interest of other creditors and the estate. Debtors submit that the
11 court should disregard this kind of position since it is unfair and unjust. (Exhibit I)
- 12 5- Debtors will request the Court for Evidencary Hearing to establish the fair market value
13 of these "Properties" and their importance to Debtors reorganization plan.

14 **II- In Regard to 2332 Harrison, Oakland.**

- 15 1- Trading Spaces LLC the buyer for the property is still working hard to close the
16 deal in spite of major obstacles and difficulties.
- 17 2- The escrow is still open, and Trading Spaces and Debtors entered into extension
18 of the closing date to July 30, 2010(Exhibit II) based on the letter that Mr. Gary
19 Gornick Managing Partner of Trading Spaces LLC, received on April 20,
20 2010.(Exhibit III) from Ronal G. Morgan CEO of Argent Asset Management Inc.
- 21 3- Debtors entered into "Adequate Protection" on April 30, 2010 and since then
22 are negotiating to modify some of the terms with Lone Oak Fund LLC the 1st lien
23 holder of "Harrison". Debtors believe the agreement they entered with Lone
24 Oak Fund will give them the essential and the necessary time they need to
25 sale "Harrison" and successfully come out of the bankruptcy and pay their
26 creditors form the sale of "Harrison".

27 **III- In Regard to David Wolfe and Marcus & Millichap Real Estate Investment**
28 **Services:**

HULBERG & ASSOCIATES

Inc.

REAL ESTATE APPRAISERS

Norman C. Hulberg, MAI
Walter D. Carney, MAI
Stephen D. Kuhnhoﬀ, MAI, ASA
John A. Hillas, SRA
Yvonne J. Broszus, MAI
Janis A. Lassner, SRA
Charles R. Marqueling, ASA, SRA
Larry W. Hulberg, MAI
Rebecca J. Barnes
Guido M. Villanueva
Kristin M. Davidson
Brian Rapela
John D. Phillips
Maria Aji, PhD
Josh Fronen
Russell J. Sherwood
Ryan A. Lorenzini
Jeremy Bargy
G. Douglas Halbert
Georgia L. Kuhnhoﬀ
C. Brett Spaulding

December 9, 2008

Doug Taylor
Sterling Savings Bank
3558 Round Barn Boulevard, Suite 300
Santa Rosa, CA 95403

Re: 353 Grand Avenue, Oakland, California;
APN: 010-0767-001

Dear Mr. Taylor:

At your request, we have appraised the above referenced mixed-use property in Oakland, California. The property is located on an approximate 0.20-acre site, and is identified as Alameda County Assessor's Parcel Number 010-0767-001. The property is improved with a 4-story mixed-use retail/residential building containing *approximately* 21,114 square feet of gross and *approximately* 14,634 square feet of net rentable building area. The building is comprised of twenty one apartment units above four retail units. The improvement was built in 1910 and is in fair condition. Building information was taken from our inspection of the property, documents submitted for our review, public records, and measurements taken by the appraisers.

As sited by previous tenants and the City of Oakland in April 2008, the property is in need of major repairs and capital improvements and is in violation of city codes and laws affecting the health and safety of tenants. As such, all *residential* tenants were given a notice to vacate the property so the proper repairs could be made. As of the date of this appraisal, two tenants still remain (as reported by the owner). The owner will reportedly make necessary repairs and remodel all of the *apartment* units. However, necessary repairs and renovation cannot start until the remaining two tenants vacate the property.

The purpose of the appraisal is to estimate the hypothetical "as if completed and stabilized," "as if completed," and "as is" market values of the subject property. *The "as if completed and stabilized" and "as if completed" values assume that the improvements will be completed in a professional like manner as described in this report.* The property rights appraised are those of the fee simple interest. The property is appraised free and clear of liens and encumbrances, such as mortgages and/or assessments outstanding. The intended use of this appraisal is to establish marketability and potential loan and asset recovery thresholds. The intended user is Sterling Savings Bank and/or affiliates.

Silicon Valley Office
One North Market Street
San Jose, CA 95113-1207
(408) 279-1520
(408) 279-3428 (fax)
E-mail: appraisals@hulberg.com

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Central Valley Office
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(209) 569-0451 (fax)
E-mail: appraisals@hulberg.com

HULBERG & ASSOCIATES, INC.

Doug Taylor
Sterling Savings Bank
December 9, 2008

The development of this appraisal is made in accordance with Uniform Standards of Professional Practice (USPAP), Standard Rule 1. The report format is that of a "summary" appraisal as outlined in USPAP Standards Rule 2-2(b). The appraisal is made in compliance with the requirements of Title XI in the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Uniform Standards of Professional Appraisal Practice (USPAP), the Appraisal Institute, and the appraisal requirements of Sterling Savings Bank, as we understand them.

Based on the market data presented, the valuation techniques applied, and the results thereof, it is our opinion that the hypothetical "as if completed and stabilized," hypothetical "as if completed", and "as is" market values of the subject property, as of December 3, 2008, subject to the assumptions and limiting conditions, certifications, and an estimated exposure period of nine months are as follows:

"As If Completed and Stabilized":	\$3,380,000
"As If Completed":	\$3,160,000
"As Is":	\$1,960,000

Respectfully submitted,



Stephen D. Kuhnhoff, MAI, ASA
Certified-General Appraiser #AG001791
Expires February 28, 2010



Jeremy Bargy
Certified-General Appraiser #AG036071
Expires January 4, 2011

JB:clv

HULBERG & ASSOCIATES, INC.

EXHIBIT II

ARGENT

ASSET MANAGEMENT

April 20, 2010

Mr. Gary Gornick, Managing Member
Trading Spaces, LLC
132 E. Lewelling Blvd.
San Lorenzo, CA 94580

Gary,

First and foremost we want to assure you that Argent Asset Management, Inc. has been and continues to be fully committed to funding your projects.

We have previously provided you with an explanation of the methodology required for our bond financing process in addition to the information provided on our website. (See attached). We are currently at Step 10 with the drafting of the Beneficial Loan Assignment Agreement.

However, we are not able to proceed further due to the fact that there is not sufficient time remaining on the purchase contracts of your projects for us to complete the process.

We are all aware of the reasons as to why we are at the current timetable but it would not be productive to enumerate them. The sole governing factor at this time is that our process in the current financial reality is that all Trading Spaces' purchase contracts need to be extended for at least 90 days. If all of the contracts are resubmitted this week we request an extension of each contract through July 30, 2010.

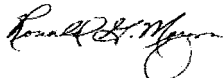
As we have indicated previously if there are any changes in loan amounts or assets to be acquired then there will be additional delays for the revision of the Private Placement Memorandum, the Beneficial Loan Agreement and the instructions for the Indentured Trust Accounts. In that case we would need the contracts to provide the time for these revisions in addition to the 90 days.

Thus, the most expeditious for your application is if there are no changes to the loan amounts or projects included. In that case, as noted above, we could proceed if this week we receive extensions of each acquisition through July 30, 2010.

We fully understand and appreciate that you have previously obtained extensions of these contracts and that the sellers have their own individual needs and capabilities. We at Argent are more than willing to assist you in explaining our process and the need for these extensions to your sellers in the context that you and not the sellers are our client.

Sincerely,

ARGENT ASSET MANAGEMENT INC. (AAM)
ARGENT SECURITIES, INC



By: _____
Ronald G Morgan CEO



CALIFORNIA
ASSOCIATION
OF REALTORS®

ADDENDUM

(C.A.R. Form ADM, Revised 10/01)

No. 10.

The following terms and conditions are hereby incorporated in and made a part of the: ☐ Residential Purchase Agreement, ☐ Manufactured Home Purchase Agreement, ☐ Business Purchase Agreement, ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Vacant Land Purchase Agreement, ☐ Residential Income Property Purchase Agreement, ☒ Commercial Property Purchase Agreement, ☐ other _____

dated February 10, 2009, on property known as 2332 HARRISON STR, OAKLAND, CA 94612
MERRIT HOTEL

in which GARY G. GORNICK is referred to as ("Buyer/Tenant")
and SELLER is referred to as ("Seller/Landlord").

1. CLOSING DATE IS EXTENDED TO JULY 30, 2010 OR SOONER.
2. BUYER IS BUYING THE PROPERTY AS INDIVIDUAL BUYER AND NOT AS A TRADING SPACES LLC AS STATED IN COMMERCIAL PROPERTY PURCHASE AGREEMENT.
3. ADDITIONAL TERMS REMAIN THIS SAME AS PER PURCHASE CONTRACT AGREEMENT DATED 02/12/2009, AND ADDENDUMS BETWEEN THE UNDERSIGNED PARTIES HERETO.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date April 22, 2010

Date April 22, 2010

Buyer/Tenant Gary G. Gornick
GARY G. GORNICK

Seller/Landlord [Signature]
SELLER

Buyer/Tenant _____

Seller/Landlord _____

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Reviewed by _____ Date _____
Broker or Designee _____



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ADDENDUM (ADM-11 PAGE 1 OF 1)

Realty World-Viking Realty 3661 Thornton Ave
Phone: (510) 794 9922 Fax: (510)

Fremont CA 94536
Mark Patton

BANYAM

EXHIBIT

~~B~~I

SUMMARY APPRAISAL REPORT

MIXED-USE BUILDING

**353 Grand Avenue
Oakland, California**

VALUATION DATE: December 3, 2008
APPRAISED FOR: Sterling Savings Bank
APPRAISED BY: Hulberg & Associates, Inc.
OUR FILE NUMBER: 13506 EBS

HULBERG & ASSOCIATES

Inc.

REAL ESTATE APPRAISERS

Norman C. Hulberg, MAI
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Stephen D. Kuhnhoff, MAI, ASA
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Expires February 28, 2010



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JB:clv

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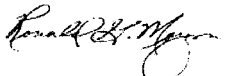
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Sincerely,

ARGENT ASSET MANAGEMENT INC. (AAM)
ARGENT SECURITIES, INC

By: 
Ronald G Morgan CEO



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Date April 22, 2010

Date April 22, 2010

Buyer/Tenant GARY G. GORNICK

Seller/Landlord SELLER

Buyer/Tenant _____

Seller/Landlord _____

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Mark Patton

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